IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 14TH NOVEMBER 2006 / 23RD KARTHIKA 1928

WP(C).No. 27015 of 2006(N)

PETITIONER:

SIJO. T.J., S/O.T.V. JOSE,
THARAKAN HOUSE, `ROLE VILLA',
KOONAMMOOCHI P.O., THRISSUR-680 504.

BY ADV. SRI.NIRMAL. S

RESPONDENTS:
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1. CALICUT UNIVERSITY, THENHIPALAM,
REPRESENTED BY ITS REGISTRAR.

2. THE PRINCIPAL, M.E.S. ENGINEERING
COLLEGE, KUTTIPPURAM, MALAPPURAM DISTRICT.

BY ADV. SRI.A.A.ABUL HASSAN
ADV.E.S.AHRAF, SC, CALICUT UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

W.P.C.No.27015 OF 2006

Dated this the 14th day of November,2006.

JUDGMENT

The case of the petitioner is as follows. He completed B.Tech degree course from M.E.S. Engineering College affiliated to the first respondent University. Reference is made to year out, normalisation and betterment. Petitioner's case is that under nomalisation method Ext.P4 was issued. As per Ext.P4 petitioner is shown to has secured 288 marks. But thereafter it is followed up by Ext.P5. Ext.P5 is the revised normalised marks. It shows that petitioner has secured only 280 marks in the internal assessment. Reference is made to Ext.P6. Ext.P6 is an order passed by the Vice-Chancellor pursuant to the direction of this court in W.P.C. No.36676/04. By this order Vice-chancellor directed adoption of Ext.P4 as internal marks for those students. Ext.P7 evidences dismissal of the writ petition recording the decision of the Vice-chancellor. It is pointed out that the petitioners are students in the same batch and they approached this court against Ext.P5. Petitioner relies on the decision of this court in W.P.C.No.17153/05. Therein this court held as follows.

> " Petitioners have approached this court praying, inter alia, for a direction to the Vice Chancellor of the Calicut University to take a decision in their favour, as was

done under Exhibit P6, in the case of similarly placed students.

2. I heard the learned standing counsel for the respondents also.

3. I feel, the benefits extended by the Vice-Chancellor, under Exhibit P6, to the students similarly placed like the petitioners, should be extended to the petitioners also.

4. Accordingly, the writ petition is disposed of directing the Vice Chancellor of the first respondent University to consider the claim of the petitioners to publish their results, by adopting Exhibit P4 as the normalised mark list, within one month from the date of production of a copy of this judgment."

2. The case of the petitioner is that if marks shown in Ext.P4 is awarded to the petitioner, petitioner would secure first class. Petitioner seeks a direction to the University to publish the results by adopting Ext.P4 as the normalised mark and quash Ext.P5.

3. In the statement filed on behalf of the first respondent, it is inter-alia stated as follows:

" It is further submitted that the results of the Exam was published on 30/09/04 taking into account of the second set of sessional marks and mark list and provisional Degree Certificate were issued to the candidate on 01/06/05, as per the application submitted by the petitioner. As per the first set of marks forwarded by the Principal of the college the petitioner had got 298 marks for internal assessment which on account of normalisation normalised to 280 in the second list. The petitioner has also applied for revaluation of 3 papers. Further as per Reg. No. 720 he attempted for improvement in December 2004. By re-valuation he got an increase of 7 marks and by improvement he got an increase of 13 marks. Even thereafter his total marks which he secured will come to 4943 only, whereas the minimum for first class in 4950 (60% of 8250 which is the maximum marks). Based on

> the above marks secured by the candidate he was issued with mark list and provisional certificate showing him as eligible for second class. The petitioner accepted the same as well.
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> The petitioner filed the writ petition as an after thought and much after the issuance of the provisional Degree certificate and award of sessional marks certified. The reliance placed on Exts.P6 and P7 has not avail to the petitioner in the above facts and circumstances of the case. Moreover as made very clear in Ext.P6 dated 26/03/05 the same was ordered as very special case applicable to the writ petitioners in W.P.C.No.36676/04."

4. Learned standing counsel Shri. Ashraf points out that this is a case where the petitioner has accepted his marks and it is only after finding that the result of the revaluation and the improvement will not be such as to secure him first class that the petitioner has woken up and approached this court. He points out that Ext.P6 is only an exercise of the discretion by the Vice-Chancellor and made in the facts of that case. I note that W.P.C.No.17153/05 was filed only in 2005. It is pointed out by the petitioner also that petitioner isl also in the same batch as the petitioners in the writ petition which culminated in Ext.P6. In such circumstances I respectfully follow the judgment of the learned single Judge in W.P.C.No.17153/05 and I feel that the benefits made available in Ext.P6 should be extended to the petitioner also.

5. Therefore the writ petition is disposed of directing the Vice Chancellor of the first respondent University to consider the claim of the petitioner to publish his results by adopting Ext.P4 as the

normalised marks within one month from the date of receipt of a copy of this judgment.

Writ petition is disposed of in the above terms.

K.M.JOSEPH.
JUDGE.

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